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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,253	10/10/2003	Mitchell Smith	03337/0200040-US0	9315
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DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			SUHOL, DMITRY	
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			3712	

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

VW

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/684,253	SMITH ET AL.	
	Examiner Dmitry Suhol	Art Unit 3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-31 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-31 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                                                 |                                                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                            | Paper No(s)/Mail Date. ____ .                                               |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/13/2003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|                                                                                                                                                 | 6) <input type="checkbox"/> Other: ____ .                                   |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12, 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 12, there is no antecedent basis for "the indicia".

Regarding claim 27, there is no antecedent basis for "the coloring mask".

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 8 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green '972 in view of Johnson '246. Green discloses tablecloth (page 2, paragraph 0015) comprising a foldable substrate (20) made of a first material (read onto the combination of materials 1, 2, 3, 4, 5, and 6) and processed to receive chalk on a writing surface thereof (page 1, paragraph 0010) and washable to remove

the chalk markings (page 2, paragraph 0029) as required by claim 1. A border formed of a second material different from the first material and formed around and attached to a peripheral edge of the substrate, as required by claim 1, is described in page 1, paragraph 0010 and shown in figures 2-3, where it is considered that since the border is made of a fabric material it is a different material since it lacks the chalkboard processing materials.

Green fails to teach a guide printed on the writing surface and being different from the first material as required by claim 1 and a border having a pattern selected from the group consisting of zigzag, striped, checker board, plaid and geometric as required by claim 4, a guide having an educational theme as required by claim 8, border including first indicia formed thereon and associated with a first theme being the same theme of the guide on the writing surface as required by claim 10 and a guide being in the form of parallel lines as required by claim 11. However, Johnson teaches that it is known to provide chalkboard surfaces with a guide printed on the writing surface through a variety of means including paint (col. 1, line 32-34) taking the form of parallel lines (figures 1-4) to foster the educational concepts of writing. Therefore it would have been obvious to one having ordinary skill in the art, at the time of the applicants invention, to have provided the chalkboard surface of Green with a guide painted on the writing surface in the form of parallel lines for the purpose of providing an aid for writing upon the surface.

Regarding claims 4 and 10, it would have been obvious to provide a pattern associated with the guide on the writing surface (required by claim 10) or selected from

one of zigzag, striped, checker board, plaid and geometric pattern (required by claim 4) for the purpose of decoration since the examiner takes official notice that such patterns provided on borders of table cloths are well known in the art and readily available and especially since it would only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack* 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of display does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Thus, there is no novel and unobvious functional relationship between the printed matter and the substrate (e.g. border) which is required for patentability. Furthermore the specific type of pattern is considered to be a design choice in that the applicants disclose no advantage or critical need for such a pattern (see specification page 8, lines 4-6).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Green '972 and Johnson '246, as stated above, and further in view of Sultanaki '776. Green, as modified by Johnson, disclose all of the elements of the claims, as stated above, but for the substrate being an oil cloth material as required by claim 2. Sultanaki teaches that it is known to manufacture table covers from an oil cloth material (page 1, lines 43-47). Therefore it would have been obvious to utilize an oil cloth in the chalkboard

surface of Green for the purpose of moisture protection, especially since Green clearly states that a variety of fabrics may be used with her invention (page 3, paragraph 0036).

Claims 1, 3-6, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glover '466 in view of Green '972 and Horton '603. Glover discloses a table cover containing most of the elements of the claims including, a foldable substrate (center cover 33) as required by claim 1, a border formed around and attached to the peripheral edge of the substrate (side portions 34 and 35) as required by claim 1, a border being formed of a material different from the first material forming the substrate (col. 1, lines 56-59), as required by claim 1, where it is clear that the border portion and the centerpiece portion may be manufactured from a variety of materials and not necessarily the same material and a border formed of a polymeric material as required by claim 3 (col. 1, lines 56-59). A border being attached to the peripheral edge such that a sealed lip edge is formed around the periphery of the substrate and is defined by a folded section of the border, as required by claim 5, is shown in figures 4 and 5. A turned down hem stitch, as required by claim 6, is shown in figure 4.

Glover fails to explicitly teach a substrate processed to receive chalk as required by claim 1, a guide printed on the writing surface as required by claim 1, a glossy finish as required by claim 3, the border having a pattern selected from the group consisting of zigzag, striped, checker board, plaid and geometric as required by claim 4. However, Green teaches that it is known to process a table cover surface to receive chalk thereon (page 1, paragraph 0010 and page 2, paragraph 0015), while Horton teaches that it is

known to provide a table cover comprising a printed guide for receiving writings for a variety of purposes including entertainment and decoration (col. 1, lines 16-35).

Therefore it would have been obvious to process the center cover portion of Glover to receive chalk for the purpose of receiving chalk writing thereon. It would have been further obvious include printed guide for the purpose of entertainment and decoration.

Regarding the glossy finish as required by claim 3, it would have been obvious to provide the border of Glover with a glossy finish for the purpose of aesthetics, especially since plastics borders as taught by Glover are known to have a variety of finishes including glossy finishes. Furthermore the specific type of finish is considered to be a design choice in that the applicants disclose no advantage or critical need for such a finish (see specification page 8, lines 4-6).

Regarding claims 4 and 10, it would have been obvious to provide a pattern associated with the guide on the writing surface (required by claim 10) or selected from one of zigzag, striped, checker board, plaid and geometric pattern (required by claim 4) for the purpose of decoration since the examiner takes official notice that such patterns provided on borders of table cloths are well known in the art and readily available and especially since it would only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack* 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of

display does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Thus, there is no novel and unobvious functional relationship between the printed matter and the substrate (e.g. border) which is required for patentability. Furthermore the specific type of pattern is considered to be a design choice in that the applicants disclose no advantage or critical need for such a pattern (see specification page 8, lines 4-6).

Claims 1 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green '972 in view of Perrotti et al '922. Green discloses tablecloth (page 2, paragraph 0015) comprising a foldable substrate (20) made of a first material (read onto the combination of materials 1, 2, 3, 4, 5, and 6) and processed to receive chalk on a writing surface thereof (page 1, paragraph 0010) and washable to remove the chalk markings (page 2, paragraph 0029) as required by claim 1. A border formed of a second material different from the first material and formed around and attached to a peripheral edge of the substrate, as required by claim 1, is described in page 1, paragraph 0010 and shown in figures 2-3, where it is considered that since the border is made of a fabric material it is a different material since it lacks the chalkboard processing materials.

Green fails to teach a guide printed on the writing surface and being different form the first material as required by claims 1 and 7, a guide having an educational theme as required by claim 8, a guide being in the form of a game board selected from the group consisting of tic-tac-toe, chess, checkers, and hang man as required by claim 9. However, Perrotti teaches that it is known to manufacture a tablecloth comprising

indicia for the purpose of playtime (figure 1) with an educational theme (alphahebt and numbers located about the periphery), and a game board (checker board in the center and tic-tac-toe board in the lower left). Therefore it would have been obvious to one having ordinary skill in the art, at the time of the applicants invention, to have provided the chalkboard surface of Green with a guide on the writing surface incorporating an educational theme and a game board for the purpose of providing a playtime tablecloth. It should be noted that the limitation of a "heat transfer process" as required by claim 7 is a product by process limitation and therefore has been given little patentable weight, however the examiner points out that the use of a heat transfer process to make indicia on a fabric surface is well known in the art as taught by Warnberg in U.S. 3,783,073.

Claims 1 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green '972 in view of Sullivan '087. Green discloses tablecloth (page 2, paragraph 0015) comprising a foldable substrate (20) made of a first material (read onto the combination of materials 1, 2, 3, 4, 5, and 6) and processed to receive chalk on a writing surface thereof (page 1, paragraph 0010) and washable to remove the chalk markings (page 2, paragraph 0029) as required by claim 1. A border formed of a second material different from the first material and formed around and attached to a peripheral edge of the substrate, as required by claim 1, is described in page 1, paragraph 0010 and shown in figures 2-3, where it is considered that since the border is made of a fabric material it is a different material since it lacks the chalkboard processing materials.

Green fails to teach a guide printed on the writing surface and being different from the first material as required by claim 1 and indicia being in the form of a music bar as required by claim 11. However, Sullivan teaches that it is known to provide chalkboard surfaces with a guide printed on the writing surface through a variety of means including paint (lines 34-36) taking the form of a music bar (figure 1). Therefore it would have been obvious to one having ordinary skill in the art, at the time of the applicants invention, to have provided the chalkboard surface of Green with a guide painted on the writing surface in the form of a music bar for the purpose of providing an aid for teaching and writing music.

Claims 13-14, 16-20, 22, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green '972 in view of Volk '900, "The Spongy Eraser" and Kerrigan '809. Green discloses tablecloth (page 2, paragraph 0015) comprising a substrate (20) made of a first material (read onto the combination of materials 1, 2, 3, 4, 5, and 6) and processed to receive chalk on a writing surface thereof (page 1, paragraph 0010) and washable to remove the chalk markings (page 2, paragraph 0029) as required by claim 13. A border formed of a second material different from the first material and formed around and attached to a peripheral edge of the substrate, as required by claim 13, is described in page 1, paragraph 0010 and shown in figures 2-3, where it is considered that since the border is made of a fabric material it is a different material since it lacks the chalkboard processing materials. The article being a tablecloth, as required by claim

13, is described at page 2 in paragraph 0015. A writing implement in the form of chalk, as required by claims 13 and 16, is described at page 1, paragraph 0010.

Green lacks the teaching of a removable guide as required by claims 13, 14 and 26, a container (a spray bottle as required by claim 17) as required by claim 13, a border section having a feature (a pocket as required by claim 18 or hook and loop fastener and strap system as required by claim 19) as required by claim 13, folded corners as required by claim 20, a border attached to the peripheral edge using a turn down hem stitch as required by claim 22. However, Volk teaches that it is known to provide removable guides/masks having openings formed therein (500) with a chalkboard surface (col. 6, lines 29-30). "The Spongy Eraser" teaches that it is known to provide a container (spray bottle) for holding a cleaning product with a chalkboard surface. Kerrigan teaches that it is known to provide a border (2) comprising folded corners (corners folded about the edge of the table as shown in figure 1) with features (3) formed as an integral part thereof (figures 1-13) where the features can be pockets or hook and loop material (8 and 9) and associated strap (figure 8 and page 2, paragraphs 0024, 0028 and 0030). Therefore it would have been obvious to utilize a guide as taught by Volk with the chalkboard surface of Green for the purpose of aiding a user in drawing designs upon the surface quickly and accurately. It would have been further obvious to include a container as taught by "Spongy Eraser" with the chalkboard device of Green for the purpose of erasing the images drawn thereupon. Furthermore, it would have been obvious to incorporate the pocket features and folded corners as

taught by Kerrigan into the border section of Green for the purpose of storage of various items and complete coverage of a table being covered by the table covering.

Regarding claim 22 and the means of attachment between the border and substrate, it would have been obvious to utilize a turn down hem stitch as an attachment means between the border and substrate of Green for the purpose of providing a good stitch since the examiner takes official notice that the utilization of such attachment means between two pieces of fabric is well known in the art.

Claims 13, 15, 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green '972 in view of Smith '320, "The Spongy Eraser" and Kerrigan '809. Green discloses tablecloth (page 2, paragraph 0015) comprising a substrate (20) made of a first material (read onto the combination of materials 1, 2, 3, 4, 5, and 6) and processed to receive chalk on a writing surface thereof (page 1, paragraph 0010) and washable to remove the chalk markings (page 2, paragraph 0029) as required by claim 13. A border formed of a second material different from the first material and formed around and attached to a peripheral edge of the substrate, as required by claim 13, is described in page 1, paragraph 0010 and shown in figures 2-3, where it is considered that since the border is made of a fabric material it is a different material since it lacks the chalkboard processing materials. The article being a tablecloth, as required by claim 13, is described at page 2 in paragraph 0015. A writing implement in the form of chalk, as required by claims 13, is described at page 1, paragraph 0010.

Green lacks the teaching of a removable/static cling guide as required by claims 13, 15 and 27, a container (a spray bottle as required by claim 17) as required by claim 13, a border section having a feature as required by claim 13. However, Smith teaches that it is known to provide static cling decals with a chalkboard surface (see abstract and page 4, paragraph 0068). "The Spongy Eraser" teaches that it is known to provide a container (spray bottle) for holding a cleaning product with a chalkboard surface. Kerrigan teaches that it is known to provide a border (2) comprising folded corners (corners folded about the edge of the table as shown in figure 1) with features (3) formed as an integral part thereof (figures 1-13) where the features can be pockets or hook and loop material (8 and 9) and associated strap (figure 8 and page 2, paragraphs 0024, 0028 and 0030). Therefore it would have been obvious to utilize a guide as taught by Smith with the chalkboard surface of Green for the purpose of allowing the addition of customized indicia and amusement to the user. It would have been further obvious to include a container as taught by "Spongy Eraser" with the chalkboard device of Green for the purpose of erasing the images drawn thereupon. Furthermore, it would have been obvious to incorporate the pocket features and folded corners as taught by Kerrigan into the border section of Green for the purpose of storage of various items and complete coverage of a table being covered by the table covering.

Claims 13 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green '972 in view of Perrotti et al '922, "The Spongy Eraser" and Kerrigan '809. Green discloses tablecloth (page 2, paragraph 0015) comprising a substrate (20) made

of a first material (read onto the combination of materials 1, 2, 3, 4, 5, and 6) and processed to receive chalk on a writing surface thereof (page 1, paragraph 0010) and washable to remove the chalk markings (page 2, paragraph 0029) as required by claim 13. A border formed of a second material different from the first material and formed around and attached to a peripheral edge of the substrate, as required by claim 13, is described in page 1, paragraph 0010 and shown in figures 2-3, where it is considered that since the border is made of a fabric material it is a different material since it lacks the chalkboard processing materials. The article being a tablecloth, as required by claim 13, is described at page 2 in paragraph 0015. A writing implement in the form of chalk, as required by claims 13, is described at page 1, paragraph 0010.

Green lacks the teaching of a guide as required by claims 13 and 23, a container as required by claim 13, a border section having a feature as required by claim 13. However, Perrotti teaches that it is known to manufacture a tablecloth comprising indicia for the purpose of playtime (figure 1). "The Spongy Eraser" teaches that it is known to provide a container (spray bottle) for holding a cleaning product with a chalkboard surface. Kerrigan teaches that it is known to provide a border (2) comprising folded corners (corners folded about the edge of the table as shown in figure 1) with features (3) formed as an integral part thereof (figures 1-13) where the features can be pockets or hook and loop material (8 and 9) and associated strap (figure 8 and page 2, paragraphs 0024, 0028 and 0030). Therefore it would have been obvious to one having ordinary skill in the art, at the time of the applicants invention, to have provided the chalkboard surface of Green with a guide on the writing surface for the purpose of

providing a playtime tablecloth. It would have been further obvious to include a container as taught by "Spongy Eraser" with the chalkboard device of Green for the purpose of erasing the images drawn thereupon. Furthermore, it would have been obvious to incorporate the pocket features and folded corners as taught by Kerrigan into the border section of Green for the purpose of storage of various items and complete coverage of a table being covered by the table covering. It should be noted that the limitation of a "heat transfer process" as required by claim 23 is a product by process limitation and therefore has been given little patentable weight, however the examiner points out that the use of a heat transfer process to make indicia on a fabric surface is well known in the art as taught by Warnberg in U.S. 3,783,073.

Claims 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green '972, Volk '900, "The Spongy Eraser" and Kerrigan '809, as stated above, and further in view of Bonnett '554. Green, as modified by Volk, "The Spongy Eraser" and Kerrigan, fails to teach a sealed lip edge as required by claim 21 and 24. However, Bonnett discloses a table covering which teaches that it is known to provide a table covering with a border attached to a peripheral edge of a substrate along a folded edge such that fluid is contained within the perimeter (figures 1 and 5 and col. 4, lines 7-28). It would have been further obvious to incorporate a border attached to a peripheral edge of a substrate along a folded edge such that fluid is contained within the perimeter for the purpose of trapping fluid and other particular matter on the table cloth.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Green '972, Volk '900, "The Spongy Eraser" and Kerrigan '809, as stated above, and further in view of Oilcloth International catalog (page entitled Oilcloth, A new oilcloth makes the whole family happy) submitted by the applicants as known prior art. Green, as modified by Volk, "The Spongy Eraser" and Kerrigan, discloses all of the elements, as stated above, but for a mesh formed thereon as required by claim 25. However Oilcloth International catalog (page entitled Oilcloth, A new oilcloth makes the whole family happy) discloses that it is known to provide a woven cotton mesh on the chalkboard surface for the purpose of support (last line of first paragraph). Therefore it would have been obvious to include a cloth mesh in the device of Green, as modified by Volk, "The Spongy Eraser" and Kerrigan for the purpose of support.

Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Green '972 in view of Perrotti et al '922 and Bonnett '554. Green discloses tablecloth (page 2, paragraph 0015) comprising a substrate (20) made of a first material (read onto the combination of materials 1, 2, 3, 4, 5, and 6) and processed to receive chalk on a writing surface thereof (page 1, paragraph 0010) and washable to remove the chalk markings (page 2, paragraph 0029) as required by claim 28. A border formed of a second material different from the first material and formed around and attached to a peripheral edge of the substrate, as required by claim 28, is described in page 1, paragraph 0010 and shown in figures 2-3, where it is considered that since the border is made of a fabric material it is a different material since it lacks the chalkboard

processing materials. The article being a tablecloth, as required by claim 30, is described at page 2 in paragraph 0015.

Green fails to teach a guide printed on the writing surface as required by claim 28, indicia formed on the a border and associated with a theme of the guide printed on the writing surface as required by claim 28, a border attached to a peripheral edge of a substrate along a folded edge such that fluid is contained within the perimeter as required by claim 28 and an educational theme or board games as required by claim 29. However, Perrotti teaches that it is known to manufacture a tablecloth comprising indicia for the purpose of playtime (figure 1) with a playtime theme, including an educational theme and board games (letters and numbers and checker board) located on the top surface and border sections (figure 1). Bonnett discloses a table covering which teaches that it is known to provide a table covering with a border attached to a peripheral edge of a substrate along a folded edge such that fluid is contained within the perimeter (figures 1 and 5 and col. 4, lines 7-28). Therefore it would have been obvious to one having ordinary skill in the art, at the time of the applicants invention, to have provided the chalkboard surface of Green with a guide on the writing surface and indicia on the border incorporating a playtime theme for the purpose of providing a playtime tablecloth. It would have been further obvious to incorporate a border attached to a peripheral edge of a substrate along a folded edge such that fluid is contained within the perimeter for the purpose of trapping fluid and other particular matter on the table cloth.

Claims 28 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calandrino '783 in view of Green '972 and Bonnett '554. Green discloses tablecloth (page 2, paragraph 0015) comprising a substrate (20) made of a first material (read onto the combination of materials 1, 2, 3, 4, 5, and 6) and processed to receive chalk on a writing surface thereof (page 1, paragraph 0010) and washable to remove the chalk markings (page 2, paragraph 0029) as required by claim 28. A border formed of a second material different from the first material and formed around and attached to a peripheral edge of the substrate, as required by claim 28, is described in page 1, paragraph 0010 and shown in figures 2-3, where it is considered that since the border is made of a fabric material it is a different material since it lacks the chalkboard processing materials. The article being a tablecloth, as required by claim 30, is described at page 2 in paragraph 0015.

Green fails to teach a guide printed on the writing surface as required by claim 28, indicia formed on the a border and associated with a theme of the guide printed on the writing surface as required by claim 28, a border attached to a peripheral edge of a substrate along a folded edge such that fluid is contained within the perimeter as required by claim 28 and a guide being a recipe as required by claim 31. However, Calandrino teaches that it is known to manufacture a tablecloth (page 3, paragraph 0029) comprising a top surface with a guide (26) with a particular theme (figure 10) and a recipe (page 5, paragraph 0042) where portions of the guide are on the writing surface and border (23). Bonnett discloses a table covering which teaches that it is known to provide a table covering with a border attached to a peripheral edge of a

substrate along a folded edge such that fluid is contained within the perimeter (figures 1 and 5 and col. 4, lines 7-28). Therefore it would have been obvious to one having ordinary skill in the art, at the time of the applicants invention, to have provided the chalkboard surface of Green with a guide on the writing surface and indicia on the border incorporating a specific theme and recipe for the purpose of providing information regarding a particular theme, especially since it would only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack* 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of display does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Thus, there is no novel and unobvious functional relationship between the printed matter and the substrate which is required for patentability. It would have been further obvious to incorporate a border attached to a peripheral edge of a substrate along a folded edge such that fluid is contained within the perimeter for the purpose of trapping fluid and other particular matter on the table cloth.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 703-305-0085. The examiner can normally be reached on Mon - Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ds



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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700